

TRIAL COURT: UWY-CV-16-6031881-S : SUPREME COURT
A BETTER WAY WHOLESALE AUTOS, INC. :
v. : SC 20386
SAINT PAUL, JAMES, ET AL : DECEMBER 27, 2019

MOTION FOR PERMISSION TO FILE LATE BRIEF

Pursuant to Practice Book § 62-7, 66-1 and 66-3, the Plaintiff-Appellant, A Better Way Wholesale Autos, Inc., hereby moves the court for permission to file a late brief. The Appellant's brief is partially complete, however, due to the absence of the office staff for the holidays, counsel requests this additional time to finalize and file the Appellant's brief. The Appellant's brief was due December 27, 2019, however, counsel for the Appellant requests additional time through January 11, 2020.

BRIEF HISTORY OF THE FACTS

This case arises out of an arbitration between A Better Way Wholesale Autos, Inc. ("Plaintiff") and James and Julie Saint Paul ("Defendants"). (Memorandum of Decision, December 30, 2016, pg. 1). On July 21, 2016, the arbitrator ruled in favor of the Defendants, finding that the Plaintiff failed to include an oil change contract and a service contract in the finance charge disclosure, thus violating the Truth in Lending Act ("TILA"), to the tune of actual damages in the amount of \$2,297.81. (Memorandum of Decision, December 30, 2016, pg. 1, 7-8). The arbitrator also awarded \$2,000.00 in statutory damages under TILA and \$4,500.00 in reasonable attorney's fees. (Memorandum of Decision, December 30, 2016, pg. 8).

On August 26, 2016, the Plaintiff filed an application to vacate arbitration award pursuant to the Federal Arbitration Act (“FAA”), 9 U.S.C.A. § 1, et seq. (Memorandum of Decision, December 30, 2016, pg. 1-2). Subsequently, the Defendants filed a motion an application to confirm arbitration award and a declaration, and brief in support, for supplemental attorney’s fees. (Memorandum of Decision, December 30, 2016, pg. 1, 10-11). The Superior Court (Taylor, J.) ruled that the Plaintiff’s application was untimely under state law. (Memorandum of Decision, December 30, 2016, pg. 7). The court also ruled that the arbitrator’s decision did not represent an egregious misperformance of duty or patently irrational application of legal principles. (Memorandum of Decision, December 30, 2016, pg. 10). The court also ruled that supplemental attorney’s fees, in the full amount requested, were appropriate. (Memorandum of Decision, December 30, 2016, pg. 14). The court dismissed the Plaintiff’s application to vacate and granted the Defendants’ application to confirm and supplemental attorney’s fees. (Memorandum of Decision, December 30, 2016, pg. 14). The matter was appealed to the Connecticut Appellate Court and the matter was heard en banc. The decision of the Appellate Court en banc contained a dissent. The Supreme Court granted certification.

A. LAW

This motion to Allow Late Filing is made pursuant to sections 62-7, 66-1 and 66- 3 of the Rules of Appellate Procedure in the Connecticut Practice Book. These sections allow the clerk of the court to accept papers correcting a noncomplying document, extend the time in which a party is allowed to file and provides the procedure for doing so. Further, Section 66-3 permits papers to be filed after the expiration of time allowed for filing if the filer is able

to demonstrate good cause for its untimeliness in a separate section captioned “good cause for late filing.”

SPECIFIC FACTS UPON WHICH THE PLAINTIFF-APPELLANT RELIES

The Appellant's brief is partially complete, however, due to the absence of the office staff for the holidays Counsel was unable to finalize and file the Appellant's brief on a timely manner. The Appellant's brief is currently due on December 27, 2019. Counsel for the Appellant makes this motion to correct this error and to request the court additional time through January 11, 2019 and to allow this late filing.

LEGAL GROUNDS UPON WHICH PLAINTIFF-APPELLANT RELIES

The Plaintiff-Appellant relies on § 62-7, 66-1 and 66-3 of the Connecticut Rules of Appellate Procedure.

CONSENT

Counsel for the Defendants-Appellees consent to a fifteen (15) day extension to file the Appellant's Brief.

THE PLAINTIFF-APPELLANT,
A BETTER WAY WHOLESALE AUTOS, INC.

By: /s/Kenneth A. Votre
Kenneth A. Votre, Esq.
Votre & Associates, P.C.
90 Grove Street, Suite 209
Ridgefield, CT 06877
Tel: (203) 498 0065
Fax: (203) 438 4202
votrelaw@gmail.com
Juris No. 422508

CERTIFICATION

I hereby certify that the foregoing complies with Practice Book § 62-7, being in 12-point Arial type, and that it is in compliance with all other formal requirements. I also hereby certify that, pursuant to Practice Book § 62-7, a copy of the foregoing was mailed, first class mail, postage prepaid, this 27th day of December, 2019.

Daniel Blinn
Consumer Law Group
35 Cold Spring Road, Suite 512
Rocky Hill, CT 06067
Tel: (860) 566-8290
Fax: (860) 571-7457
dblinn@consumerlawgroup.com

Richard Wareing, Esq.
Natale & Wolinetz,
116 Oak Street
Glastonbury, CT 06067
rwareing@natalelawfirm.com

BY: /s/Kenneth A. Votre
Kenneth A. Votre, Esq.
Votre & Associates, P.C.
90 Grove Street, Suite 209
Ridgefield, CT 06877
Tel: (203) 498 0065
Fax: (203) 438 4202
votrelaw@gmail.com
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